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IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE

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IN RE COPAXONE 40 MG) C.A. No. 14-1171-GMS
CONSOLIDATED CASES) (CONSOLIDATED)

- - -

Wilmington, Delaware.
Wednesday, September 28, 2016
9:00 a.m.
Day 3 of Bench Trial

- - -

BEFORE: HONORABLE GREGORY M. SLEET, U.S.D.C.J.

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1 THE COURT: Good morning.

2 (Counsel respond "Good morning.")

3 THE COURT: Please, take your seats.

4 I understand that we have an issue or two. Who
5 wants to go first?

6 MR. WARE: Yes, Your Honor. I would appreciate
7 if the Court would entertain us at sidebar.

8 (The following took place at sidebar.)

9 MR. WARE: Your Honor, yesterday, we had some
10 colloquy about Mr. Hassler and the extent to which I would
11 be precluded from asking questions on irreparable harm.

12 THE COURT: Yes.

13 MR. WARE: I believe representations were
14 made -- I am not going to characterize those -- I asked for
15 the Bench conference in part because I don't want to
16 embarrass anybody -- but the representations were made to
17 you, including these: that he was never identified in
18 response to discovery requests; he was never identified as
19 someone who was going to have knowledge on irreparable harm
20 issues.

21 That is not true. Among other things, we gave
22 in discovery his declaration filed in the U.S. Supreme
23 Court, the subject of which is irreparable harm.

24 In fairness, it has to do more with 20 milligram
25 than 40 milligram because that was the nature of the case.

1 But the entire content is on the issue of irreparable harm.

2 Defendants have marked that as a defense exhibit
3 in this case.

4 He was deposed six months, ago and he was asked
5 time and time again about this issue in the deposition in
6 this case.

7 My feeling was that yesterday, knowing the
8 premium the Court puts on fairness, that the Court felt that
9 defendants had not been given appropriate notice or an
10 opportunity. And that is absolutely not the case. He was
11 deposed endlessly on this.

12 That is my issue, Your Honor. We should be free
13 to inquire on this. I have a suggestion if we get to it.

14 MS. BLOODWORTH: Your Honor, if I may.

15 First of all, this is the first we are hearing
16 about this. We met and conferred with plaintiffs many times
17 last night on a variety of issues and this was never brought
18 to our attention, that they were going to make this motion
19 this morning. So I have no information in front of me about
20 what testimony Mr. Ware is actually referencing.

21 I can tell you that I was counsel for Mylan in
22 the 20 milligram case which went to the Supreme Court. Mr.
23 Hassler submitted that harm declaration on whether or not
24 generic competition entry of the 20 milligram product
25 against Teva's 20 milligram product would cause irreparable

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